IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.5225 of 2000

Between:

Sri Vinayaka Bricks Manufacturers & Owners

Welfare Association Reg.No.984/94,

Rep.by its Secretary R.Venkateswar Rao,

S/o.Suryanarayana, aged 35 years, Kedarlanka,

Kapileswarapuram Mandal, E.G.District.

..... PETITIONER

AND

1. The Government of Andhra Pradesh,

rep. by its Secretary, Revenue Department,

Secretariat, Hyderabad & 6 others.

.....RESPONDENTS

ORDER:

This Writ Petition is filed by an Association representing the Brick manufacturers of Kedarlanka Village in Kapileswarapuram Mandal of East Godavari District.

Petitioner-Association, representing the Brick Manufacturers of Kedarlanka Village, Kapileswarapuram Mandal, East Godavari District, purchased the lands in question under registered sale deeds and has been conducting manufacturing activity in those lands. On 01-12-1999, when respondents 3 and 4 instructed the members of the petitioner-Association to stop the brick manufacturing, they filed W.P.No.22656 of 1999, which was disposed of on 18-02-2000, permitting the members of the petitioner-Association to make their applications for permission to excavate and use the soil for making bricks and the authorities were also directed to consider the same. But the 5th respondent issued the impugned notice dated 28-02-2000 directing the members of the petitioner-association to stop the brick manufacturing immediately. Hence, the writ petition.

Heard learned Counsel for the parties and perused the entire material available on record.

The impugned notice was issued on the ground that the members of the petitioner-Association are digging the earth in depth in Lanka lands and taking away the clay silt to Kedarlanka and Veedhivarilanka Villages for the purpose of manufacturing Bricks. It is alleged in the said notice that such an excavation is contrary to the Mineral Conservation and Development Rules, 1988, framed under Mines and Minerals (Regulations & Development) Act, 1957 (Act 67 of 1957).

Though this Writ Petition pertains to the year 2000, no counter-affidavit

has yet been filed by the respondents.

A reading of the impugned notice indicates that no direction is issued against the members of the petitioner-Association restraining them from carrying on excavating operations. But, it is alleged in the notice that such digging in depth in Lanka lands is contrary to Conservancy Rules.

If such a digging is not in contravention of the Rules, the members of the petitioner-Association can as well explain the same by filing an explanation to the impugned notice.

In absence of any direction to the members of the petitioner-Association, and in absence of passing any order by the authorities, no direction can be issued at this stage.

However, the impugned notice itself indicates that on failure to stop such digging, the proceedings will be initiated against the petitioner-Association as per Rule 13 of the Conservancy Rules referred to above. But, without giving an opportunity to the members of the petitioner-Association, no direction can be issued for stopping the digging as such.

In that view of the matter, I deem it appropriate to direct the respondents to treat the impugned notice dated 28-02-2000 as a show cause notice. It is open for the members of the petitioner-Association or the Association to file an explanation to the impugned notice within a period of 8 weeks from the date of receipt of a copy o f this order, and on filing such an explanation, it is open for the respondents to pass appropriate orders in accordance with law. Till such orders are passed, members of the petitioner-Association cannot be stopped from manufacturing the Bricks, if they are continuing the said activity even now. However, it is also made clear that if no explanation is filed within the time stipulated, it is open for the respondents to take appropriate steps as per the rules.

Subject to the above direction, writ petition is disposed of. No order as to costs.

16-11-2005

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